

REMARKS

Reconsideration and allowance are respectfully requested.

Claim Status

The Office Action stated that claims 1-15 are pending. Applicants believe the Application, at this point, contains 16 claims - claim 1-16.

The Office Action of June 25, 2009 does not contain any rejection of claim 16 but there is also no indication that the claim is allowable. Acknowledgment of the allowability of claim 16 is requested.

Remarks Regarding Claim Amendments

Claims 6, 8, 10 and 11 are rewritten to be independent claims. Support for the amendments to these claims are in original claims 1, 6, 8, 10 and 11. No new matter is added and entry of the Claims Amendments is requested.

Remarks Regarding Claim Amendments

A claim is anticipated only if each and every limitation as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of Calif.*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in as complete detail as is claimed. See *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Claims 1-5 and 13-15 stand rejected under 35 U.S.C. 102 as allegedly anticipated by Benvenuti (U.S. Patent 6,670,434). Applicants traverse.

The claimed invention is directed to a process where an anionic imine ligand is formed as a part of the process. This fact can be derived from the fact that the claims have a limitation that recites that $k + l + m + n + 1 = V$. The consequence of this equation is that all ligands are bonded covalently to the metal.

In contrast, Benvenuti describes a different process to make its complex (see, e.g., Benvenuti, column 3, lines 34-49). The first condensation step is described in the Benvenuti process in column 3 line 35. In this step, two equivalents of an amine react

with 2,6-bis(carbonyl)pyridine to a bis-imine. In the second step, the thus formed bis-imine is reacted with a halide of a transition metal (M). This reaction does not describe the presence of at least one equivalence of a base. This is not described and in fact not necessary in Benvenuti's process as this reaction is a mere coordination reaction between the neutral imine ligand and the metal, forming a coordination bond with the metal. The (T/b) A groups present in formula (I) of Benvenuti leave no room for a covalent bond to any of the nitrogen atoms. In Benvenuti's third step, the halide groups may be replaced by alkyl groups with a Grignard reagent.

Since Benvenuti does not teach a process wherein nitrogen is covalently or ionically bonded to a metal atom, this requiring at least 1 equivalent of a base, the present process (which recites and require at least one equivalents of a base) cannot be anticipated by Benvenuti.

Benvenuti does not anticipate the claimed invention because it does not disclose all limitations of independent claim 1. Moreover, those claims depending from independent claim 1 in this rejection (i.e., claims 2-5 and 13-15) are also not anticipated by the document because the limitations of claim 1 are incorporated in claims depending therefrom. See *In re McCarn*, 101 USPQ 411, 413 (C.C.P.A. 1954).

Withdrawal of the Section 102 rejection is requested because the cited document fails to disclose all limitations of the claimed invention.

Remarks Regarding Claim Objections

Claims 6-12 stand objected to as depending on a rejected base claim. Applicants traverse.

Solely in an effort to expedite prosecution, Applicants have amended claims 6-12 to not depend on any rejected claims. Thus, Applicants believe claims 6-12 are allowable because they have not been rejected under any other basis. The withdrawal of the objection to claims 6-12 and the allowance of these claims is respectfully requested.

Conclusion

Having fully responded to the pending Office Action, Applicants submit that the claims are in condition for allowance and earnestly solicit an early Notice to that effect. The Examiner is invited to contact the undersigned if additional information is required.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: Eric Sinn
Eric Sinn
Reg. No. 40,177

901 North Glebe Road, 11th Floor
Arlington, VA 22203-1808
Telephone: (703) 816-4000
Facsimile: (703) 816-4100